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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,040	10/09/2001	Robert S. Kody	56685US002	7546

32692 7590 07/21/2003

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EXAMINER
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THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

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DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/974,040	Applicant(s) KODY ET AL.	
Examiner Camie S Thompson	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2003.
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-38 and 45-49 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-15, 17-33, 35 and 46-49 is/are rejected.
- 7) ☒ Claim(s) 4, 34, 36-38 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

1. Applicant's amendment and accompanying remarks filed on May 13, 2003 have been acknowledged.
2. Examiner acknowledges amended claims 1, 6, 10, 25, 27-29, 35 and 38.
3. Examiner acknowledges cancelled claims 16 and 39-44 and newly added claims 45-49.
4. The objection to claims 6, 10, 27 and 38 has been withdrawn due to applicant's amended claims.
5. The rejection of claims 36-38 under 35 U.S.C. 103(a) as being unpatentable over Joseph et al., U.S. Patent Number 6,368,687 is withdrawn due to applicant's statement of common ownership.
6. The rejection of claims 29 and 33-34 under 35 U.S.C. 103(a) as being unpatentable over Perez et al., U.S. Patent Number 6,331,343 in view of Joseph et al., U.S. Patent Number 6,368,687 is withdrawn due to applicant's statement of common ownership.
7. The rejection of claims 1 and 3-4 under 35 U.S.C. 102(e) as being anticipated by Joseph et al., U.S. Patent Number 6,368,687 is withdrawn due to applicant's amendment.
8. The rejection of claims 1 and 24 under 35 U.S.C. 102(e) as being anticipated by Perez et al., U.S. Patent Number 6,420,024 is withdrawn due to applicant's amendment.

### *Specification*

9. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is objected to because of the language "Described are microfiber articles ... combination of properties". This language should be avoided.

### *Claim Rejections - 35 USC § 102*

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

11. Claims 1-3, 5-15, 17-33, 35 and 46-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Perez et al., U.S. 6,331,343.

Perez discloses novel oriented films that can be multi-layer films having at least one fibrous surface wherein the films are useful in applications such as backings for tapes as per instant claim 1 (see column 1, lines 59-68 and column 13, lines 55-68). Column 14, lines 22-68 disclose the use of coextrusion in the manufacturing of the multilayer film wherein the film is uniaxially oriented. Example 7 of the reference discloses that microfibers on both sides as per instant claims 3, 20 and 30-31. In addition, Example 7 discloses that the bilayer film is stretched almost twice as much in one direction as in the perpendicular direction. Perez discloses that the films may be uniaxially oriented to produce a fibrous surface having polymeric microfibers of average effective diameter of less than 20 microns and having a transverse aspect ratio of from 1.5:1 to 20:1 as per instant claims 22-23 (see column 2, lines 10-15). Microfibers having an average cross-sectional area per instant claim 24 are inherently provided within the average effective diameter range set forth in column 2, lines 12-13. Additionally, the reference discloses that the microfibers that are produced from uniaxially films have a very high modulus as per instant claims 6 and 7 (see column 2, lines 15-19). It is disclosed in column 14, lines 22-36 that various molten streams are transported through the extrusion die outlet. Therefore, two or more layers for the film are formed as per the instant claims. The reference also discloses that the multi-layer film is manufactured by the coextrusion technique as per the instant claims (see column 14, lines 23-25). The invention provided by the reference discloses that the multi-layer

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film may have a fibrillated film layer and an additional layer that is either porous or non-porous and the fibrillated film layer may be an exterior layer or an interior layer and have high tensile strength as per instant claims 5, 7, 19, 29 and 30-31 (see column 13, lines 57-59). In addition, the reference also discloses that the multilayer article may have additionally layers that may be bonded or laminated to the fibrillated film and the additional layer as per instant claims 10, 12, 21 and 32-33 (see column 13, lines 55-63). Perez also discloses that the fibrous surface of the oriented films comprise a crystalline polymer component wherein the semicrystalline polymer that may be useful may include polypropylene as per instant claims 7-8, 15, 28 (see column 3, lines 15-36). The reference discloses that the final thickness of the film prior to fibrillation will be 0.025 to 0.5 mm as per instant claim 18 (see column 9, lines 44-49).

10. Claims 4, 34, 36-38 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (703) 308-0449. The fax phone numbers for the Group are (703) 872-9310 {before finals} and (703) 872-9311 {after finals}.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



MARIE YAMNITZKY  
PRIMARY EXAMINER

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